REMARKS

The above-referenced patent application has been reviewed in light of the Office Action referenced above. Reconsideration of the above-referenced patent application in view of the following remarks is respectfully requested.

Claims 1-39 are pending in the application. Claims 1, 10, 20, 26-29, 30, 32-35, and 37-39 have been amended. The amendment is fully supported by the original disclosure. No new matter has been introduced.

The claim amendments above with respect to the allowable claims 1, 10, 20, 30, 32-35, and 37-39 relate to clarifying the claim language for the purpose of improving the readability of the claims and are not intended to change the scope of the claims. The claim amendments above with respect to claims 26-29 relate to clarifying the statutory class of these claims are not intended to change the scope of the claims. Accordingly, Assignee requests that these amendments be entered after final.

Allowable Subject Matter

Assignee thanks the Examiner for the allowance of claims 10-15, 20-25, and 30-35.

Claim rejections - 35 USC §101

Claims 26-29 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either an asserted utility or a well established utility.

In response, Assignee has amended claims 26-29 to clarify the statutory class of these claims by reciting a "computer readable storage medium", as suggested by the Examiner.

Claim rejections - 35 USC §112

Claims 1, 2, 7, 16-19, 26-29 and 36-39 are rejected under 35 U.S.C. 112, first paragraph.

The Examiner appears to base the §112 rejection on the underlying §101 rejection to claims 26-29. Accordingly, Assignee submits that by amending claims 26-29 to adopt the claim language recommended by the Examiner the §112 rejection has likewise been overcome.

Claim rejections - 35 USC §102

Claims 1, 2, 7, 16-19, 26-29 and 36-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi et al. (US Patent No. 5,583,662). These rejections are respectfully traversed.

Assignee respectfully submits that Takahashi does not disclose all of the elements of independent claim 1. The Examiner is kindly reminded that the Examiner's has an initial burden of factually supporting any conclusion of anticipation.

> A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. (See MPEP § 2131.01.)

First, the Examiner has not established that Takahashi discloses "*scanning a smooth image region to obtain a smooth image data ... wherein the smooth image region comprises a uniform brightness*", as recited in claim 1. In the Office Action the Examiner has asserted that:

> Takahashi et al. discloses ... scanning a smooth image region, (scanner 101 of fig 1 and 2, reads a document) wherein the smooth image region comprises at least the original pixels with the predetermined number and wherein the smooth image region comprises a uniform brightness, (the quantities of the light are controlled to a predetermined adequate quantity by feed back control, see col. 9, lines 45-60, and (col. 10, lines 10-15) to obtain a smooth image data, see (there by preventing the density read out of the document from becoming irregular, see (col. 10, lines 1-5) ... (See page 4 of the Office Action).

Assignee cannot agree. Specifically, even assuming for the sake of argument that Takahashi et al. discloses controlling quantities of light, the Examiner has not established any nexus between the type and/or quality of light output of the device of Takahashi with a the claimed properties of the "*smooth image region*" that is to be scanned, as recited in claim 1. Assignee fails to see the relevance that quantities of light have to the claimed properties of the "*smooth image region*" wherein the smooth image region itself "*comprises a uniform brightness*". Further, while the Examiner has generally referred to a "document" of Takahashi, the Examiner has not established that the "document" itself has the claim property of a "*smooth image region*" wherein the smooth image region itself "*comprises a uniform brightness*". In response, in the Office Action the Examiner has asserted that:

> Examiner respectfully disagree with the applicant' arguments, because the limitation is broad enough to read on the prior art's teaching, in that the image source shown on fig 3 and 4, and discussed on column 9, lines 45-55, Specifically ... the quantity of light issuing from the lamp which change with ambient temperature, so that the quantities of light or brightness are controlled to a predetermined adequate quantity, there by preventing the density/resolution read out of the document from becoming irregular see also col. 10, lines 1-5. ... (See pages 9-10 of the Office Action).

Assignee cannot agree. Specifically, the control of brightness of lamps 201 and 202 of Takahashi is intended to control the light delivered to a document. It does not follow, however, that a "smooth image region" is scanned once this uniform brightness is reflected from a document unless the region of **document itself** is also uniform. If the document itself has an **irregular** image region, then the uniformity of brightness of lamps 201 and 202 will not transform an irregular image region into a "smooth image region". Lastly, Assignee submits that the Examiner's interpretation is incorrect as it would render the device of Takahashi incapable of scanning a document for reproduction, as all images from a document would be washed out and transformed into a single smooth image region by the adjusted brightness of lamps 201 and 202.

Accordingly, Assignee submits that the Examiner has not established that the lamps 201 and 202 of Takahashi are capable of rendering an irregular image region into a "smooth image region". In the absence of the Examiner pointing to such a disclosure in Takahashi, Assignee requests that the rejection be withdrawn as the Examiner has failed to establish that Takahashi discloses the identical invention as is required for anticipation. See MPEP § 2131.

Second, the Examiner has not established that Takahashi discloses "*scanning a smooth image region.... and ... processing scanned images obtained by scanning a document according to the smooth image data*", as recited in claim 1. In the Office Action the Examiner has asserted that:

> Takahashi et al. discloses ... scanning a smooth image region, (scanner 101 of fig 1 and 2, reads a document) ... and processing scanned images obtained by scanning a document according to the smooth image data, see (col. 7, lines 40-45). (See page 4 of the Office Action).

Assignee cannot agree. Specifically, the Examiner has not established that Takahashi discloses both "*scanning a smooth image region*" as well as "*scanning a document according to the smooth image data*", as recited in claim 1. Even assuming for the sake of argument that Takahashi et al. discloses scanning a document, the Examiner has neither established that any portion of the document would anticipate a "*smooth image region ... wherein the smooth image region comprises a uniform brightness*", nor established that any "*scanned images obtained by scanning a document*" be processed "*according to the smooth image data*", as recited in claim 1. Similarly, regarding independent claim 16, the Examiner has neither established that any portion of the document would anticipate a "*smooth image region with a uniform brightness*", nor established that a "*calculated brightness for at least a portion of a second image region*" be based at least in part on "*a standard brightness from the smooth image region*". In the absence of the Examiner pointing to such a disclosure in Takahashi, Assignee requests that the rejection

be withdrawn as the Examiner has failed to establish that Takahashi discloses the identical invention as is required for anticipation. See MPEP § 2131. Claims 2, 7, 16-19, 26-29, and 36-39 are similarly not anticipated, at least on the same or similar basis as claim 1.

It is noted that claimed subject matter may be patentably distinguished from the cited references for additional reasons; however, the foregoing is believed to be sufficient. Likewise, it is noted that the Assignee's failure to comment directly upon any of the positions asserted by the Examiner in the office action does not indicate agreement or acquiescence with those asserted positions.

Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

Invitation for a Telephone Interview

The Examiner is invited to call the undersigned attorney, James J. Lynch, at (503) 439-6500 if there remains any issue with allowance.

Additional fees

Any fees or extensions of time believed to be due in connection with this amendment are enclosed herein; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account 50-3703.

Respectfully submitted,
Attorney for Assignees

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/James J. Lynch Reg. No. 50,153/
James J. Lynch
Reg. No. 50,153

Customer Number: 00043831

Berkeley Law & Technology Group, LLP
1700 NW 167th Place, Suite 240
Beaverton, OR 97006
503.439.6500